

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on March 11, 2003 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: SB 151 (3/7/03); SB 143 (3/7/03);  
SB 144 (3/7/03); SB 125 (3/7/03)

Executive Action: SB 144 Be Concurred In; SB 143 No action taken, withdrew motion; SB 125 Be Concurred In; SB 151 Be Concurred In; SB 36 Be Concurred In As Amended; SB 26 Be Concurred In As Amended

**HEARING ON SB 151**

**Sponsor:** SEN. DALE MAHLUM, SD 35, Missoula

**Opening Statement by Sponsor:**

**SEN. MAHLUM** said this bill would generally revise the Montana Life and Health Insurance Guaranty Association Act. It clarifies that the Act applies to insolvent insurers as well as impaired insurers. This bill would establish procedures for an association to elect to continue reinsurance and provide for the distribution of deposits paid to an association. It clarifies the scope of coverage of the act and revised definitions.

***{Tape: 1; Side: A; Approx. Time Counter: 25 - 58}***

**Proponents' Testimony:**

**Mona Jamison, Attorney at Law, Montana Life and Health Guarantee Insurance**, presented written testimony regarding the changes in the statute. This bill would provide clearer direction in handling cases of impaired or insolvent insurers. These changes will result in greater operating efficiency and help limit disagreements over statutory interpretation and resulting legal proceedings. Montana residents will benefit from the greater detail about protection afforded and include increases in most health coverage. **Ms. Jamison** also presented testimony regarding an overview of the bill; a copy of correspondence from Lloyd D. Bender.

**EXHIBIT (buh51a01)**

**EXHIBIT (buh51a02)**

**EXHIBIT (buh51a03)**

**EXHIBIT (buh51a04)**

**EXHIBIT (buh51a05)**

***{Tape: 1; Side: A; Approx. Time Counter: 58 - 205}***

**Claudia Clifford, Insurance Commissioner's Office**, provided a summary of provisions of this bill.

**EXHIBIT (buh51a06)**

***{Tape: 1; Side: A; Approx. Time Counter: 205 - 252}***

**Eliza Frazer, Guarantee Association Board**, said this bill protects Montana citizens by an increase in benefits.

**{Tape: 1; Side: A; Approx. Time Counter: 252 - 273}**

**Pat Callbeck Harper, Associate State Director, AARP Montana**, said they support this bill.

**{Tape: 1; Side: A; Approx. Time Counter: 273 - 290}**

**Don Allen, Montana Association of Insurance and Financial Advisors**, said this bill would provide better assurance to people.

**{Tape: 1; Side: A; Approx. Time Counter: 290 - 315}**

**Mike Barrett, Helena resident**, provided testimony.

**EXHIBIT** (buh51a07)

**{Tape: 1; Side: A; Approx. Time Counter: 315 - 356}**

**Jacqueline Lenmark, American Council of Life Insurers**, said this bill will protect and enhance the important functions of the Guarantee Fund serves.

**{Tape: 1; Side: A; Approx. Time Counter: 356 - 379}**

**Frank Cote, Health Insurance Association of America**, said this bill was a good consumer protection benefit.

**{Tape: 1; Side: A; Approx. Time Counter: 379 - 408}**

**Opponents' Testimony:** None

**Informational Testimony:**

**Frank O'Loughlin, Attorney at Law, Denver**, said he would be pleased to answer questions from the committee.

**{Tape: 1; Side: A; Approx. Time Counter: 408 - 443}**

**Questions from Committee Members and Responses:**

**REP. BOOKOUT-REINICKE** asked Mr. O'Loughlin about the source of the money to assist insurance companies. **Mr. O'Loughlin** said there was an assessment system through the Associations' where a participating carriers.

**{Tape: 1; Side: A; Approx. Time Counter: 443 - 481}**

**REP. GALLIK** asked Mr. O'Loughlin about additional funding and the current assessment capacity. **Mr. O'Loughlin** said the exposure the Association has will increase as the health benefits increase. They have never exceeded their assessment capacity since 1974. There is still excess capacity.

**{Tape: 1; Side: A; Approx. Time Counter: 481 - 500}**

**REP. MENDENHALL** asked Ms. Lenmark about the assessments which would be factored into this bill and if there would be a rise in premiums. **Ms. Lenmark** said there should be sufficient reserves and surplus with the companies who are members of the Association.

*{Tape: 1; Side: B; Approx. Time Counter: 1 - 71}*

**Closing by Sponsor:**

The sponsor closed and indicated **REP. MENDENHALL** would carry the bill on the House floor.

*{Tape: 1; Side: B; Approx. Time Counter: 71 - 133}*

**HEARING ON SB 143**

**Sponsor:** **SEN. JOHN BOHLINGER, SD 7, Billings**

**Opening Statement by Sponsor:**

**SEN. BOHLINGER** said this bill provided a qualified charitable gift annuity is not insurance. It requires that charitable organizations entering into a charitable gift annuity agreement give notice to donors and the State Auditor's Office.

*{Tape: 1; Side: B; Approx. Time Counter: 143 - 280}*

**Proponents' Testimony:**

**Jill Gerdrun, State Auditor's Office**, provided written testimony explaining the bill.

**EXHIBIT** (buh51a08)

*{Tape: 1; Side: B; Approx. Time Counter: 280 - 394}*

**Aidan Myhre, Governor's Task Force**, said they recognized there was an inconsistent law and questions regarding charities throughout Montana. The primary intent is a gift to the charity.

*{Tape: 1; Side: B; Approx. Time Counter: 394 - 430}*

**Jim Soft, President, Yellowstone Boys and Girls Ranch Foundation**, said this bill will help reconcile the insurance side of the statute and the charitable side of the statute.

*{Tape: 1; Side: B; Approx. Time Counter: 430 - Tape: 2; Side: A; Approx. Time Counter: 43}*

**Linda Reed, Executive Director, Montana Community Foundation**, said this bill clarifies for consumers, that nonprofit

organizations are qualified to offer these particular kinds of gifts. It allows the Auditor's Office to oversee the project.

**{Tape: 2; Side: A; Approx. Time Counter: 24 - 43}**

**Jacqueline Lenmark, American Council of Life Insurers**, said this bill is a good clarification of the regulation of this particular noninsurance product.

**{Tape: 2; Side: A; Approx. Time Counter: 43 - 49}**

**Pat Callbeck Harper, Associate State Director, AARP Montana**, provided written testimony.

**EXHIBIT** (buh51a09)

**{Tape: 2; Side: A; Approx. Time Counter: 49 - 56}**

**Clark Pyfer, Retired, Gallusha, Higgins & Gallusha**, said he was a charter member of the Community Foundation and supports this bill.

**{Tape: 2; Side: A; Approx. Time Counter: 56 - 70}**

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MAEDJE** asked **SEN. BOHLINGER** about some possible amendments to this bill and **SEN. BOHLINGER** stated he preferred the bill stands as it is.

**{Tape: 2; Side: A; Approx. Time Counter: 70 - 196}**

**REP. KEANE** asked **SEN. BOHLINGER** if he indeed did not want the Committee to amend the bill and **SEN. BOHLINGER** stated he did not.

**{Tape: 2; Side: A; Approx. Time Counter: 196 - 197}**

**Closing by Sponsor:**

The sponsor closed and indicated **REP. MENDENHALL** was to carry this bill on the House floor.

**{Tape: 2; Side: A; Approx. Time Counter: 197 - 215}**

**HEARING ON SB 144**

**Sponsor:** **SEN. GREGORY D. BARKUS, SD 39, Kalispell**

**Opening Statement by Sponsor:**

**SEN. BARKUS** said this bill revised the state securities laws by modifying the individuals not included in the definition of "salesperson." It also provides for a charge of 50 cents per page for obtaining certain copies from the Securities Commissioner, and a \$50 fee for an issuer filing a name change for a series portfolio.

**{Tape: 2; Side: A; Approx. Time Counter: 215 - 258}**

**Proponents' Testimony:**

**Brenda Elias Thompson, Deputy Securities Commissioner, State Auditor's Office,** provided written testimony.

**EXHIBIT** (buh51a10)

**{Tape: 2; Side: A; Approx. Time Counter: 215 - 303}**

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MENDENHALL** asked Ms. Thompson for an example of a federal covered security and she said it was a mutual fund company.

**{Tape: 2; Side: A; Approx. Time Counter: 303 - 347}**

**Closing by Sponsor:**

The sponsor closed and indicated that REP. BITNEY would carry the bill on the House floor.

**HEARING ON SB 125**

**Sponsor:** **SEN. JON TESTER, SD 45, Big Sandy**

**Opening Statement by Sponsor:**

**SEN. TESTER** said this bill would revise securities laws for the purpose of promoting capital formation by creating an additional exempt transaction for Montana-based businesses.

**{Tape: 2; Side: A; Approx. Time Counter: 367 - 419}**

**Proponents' Testimony:**

**Brenda Elias Thompson, Deputy Securities Commissioner, State Auditor's Office,** provided written testimony.

**EXHIBIT**(buh51a11)

*{Tape: 2; Side: A; Approx. Time Counter: 419 - 505}*

Aiden Myhre, Governor's Task Force, said they supported this bill.

*{Tape: 2; Side: B; Approx. Time Counter: 1 - 3}*

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

The sponsor closed and indicated REP. BERGREN would carry the bill on the House floor.

*{Tape: 2; Side: B; Approx. Time Counter: 3 - 10}*

EXECUTIVE ACTION ON SB 144

*{Tape: 2; Side: B; Approx. Time Counter: 10 - 100}*

Motion/Vote: REP. BITNEY moved that SB 144 BE CONCURRED IN.  
Motion carried 18-0.

Motion/Vote: REP. BITNEY moved that SB 144 BE PLACED ON THE  
CONSENT CALENDAR. Motion carried 17-1 with REP. KEANE voting no.  
(Though the motion carried, the bill will not be placed on the  
consent calendar according to House Rules H40-110(b) requiring a  
unanimous vote on such a motion.)

REP. BITNEY will carry the bill on the House Floor.

EXECUTIVE ACTION ON SB 143

Motion/Vote: REP. MENDENHALL moved that SB 143 BE CONCURRED IN.  
Motion carried 18-0.

Discussion:

REP. MAEDJE asked if the Committee could hold off on voting on  
this bill because he did have some proposed amendments.

CHAIRMAN MCKENNEY asked that REP. MENDENHALL withdraw his motion  
as a courtesy to REP. MAEDJE.

**Motion/Vote:** REP. MENDENHALL moved to WITHDRAW his motion BE CONCURRED IN. Motion carried 18-0.

**EXECUTIVE ACTION ON SB 125**

**Motion/Vote:** REP. BERGREN moved that SB 125 BE CONCURRED IN. Motion carried 18-0.

**Motion:** REP. MORGAN moved that SB 125 BE PLACED ON THE CONSENT CALENDAR. CHAIRMAN McKENNEY did not recognize the motion.

**EXECUTIVE ACTION ON SB 151**

**Motion/Vote:** REP. MORGAN moved that SB 151 BE CONCURRED IN. Motion carried 18-0.

REP. MENDENHALL will carry this bill on the House Floor.

**EXECUTIVE ACTION ON SB 36**

**Motion:** REP. MORGAN moved that SB 36 BE CONCURRED IN.

**Discussion:**

REP. MORGAN said the bill limits where a person would need to be a sole proprietor in order to do the job. If that language were removed the bill would read the same. It would still specify a water commissioner appointed by a District Court is not an employee of the judicial branch.

**EXHIBIT (buh51a12)**

REP. MENDENHALL said his amendment would leave the sole proprietor in the bill and adds any other business entity elected by the commissioner. He also indicated he had spoken with the Department regarding this amendment.

**EXHIBIT (buh51a13)**

REP. MORGAN indicated a representative of the Supreme Court had approached her before the amendment was brought out and they indicated there was an amendment proposed to "fix the bill."

**Motion:** REP. MENDENHALL moved the Mendenhall amendment (Exhibit 13)



**Motion:** REP. MORGAN moved that SB 36 BE AMENDED. (Exhibit 12)

**Discussion:**

REP. GALLIK stated the Mendenhall amendment was unclear.

CHAIRMAN MCKENNEY said he opposed the Mendenhall amendment.

**Vote:** Motion on Mendenhall amendment failed 2-16 with REPS. MENDENHALL and ROME voting yes. A roll call vote was taken. (Exhibit 13)

**Vote:** Motion on Morgan amendment carried 17-1 with REP. LAWSON voting no. (Morgan amendment) (Exhibit 12)

**Motion/Vote:** REP. MORGAN moved that SB 151 BE CONCURRED IN AS AMENDED. Motion carried 18-0.

REP. MAEDJE will carry the bill on the House floor.

**EXECUTIVE ACTION ON SB 26**

**Motion:** REP. ROME moved that SB 26 BE CONCURRED IN.

**Motion/Vote:** REP. LAWSON moved that SB 26 BE AMENDED. A roll call vote was taken. Motion carried 18-0.

**EXHIBIT** (buh51a14)

**Motion/Vote:** REP. LAWSON moved that SB 26 BE CONCURRED IN AS AMENDED. Motion carried 18-0.

REP. LAWSON will carry the bill on the House floor.

ADJOURNMENT

Adjournment: 10;15 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT** (buh51aad)